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UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA (RIVERSIDE)

In re

David Robert Stone,

Debtor,

Case No.: 6:25-bk-12353

Chapter 7

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN OPPOSITION TO  
TRUSTEE’S MOTION FOR ORDER  
AUTHORIZING USE OF CASH  
COLLATERAL**

Date: August 28, 2025

Time: 9:30 a.m.

Courtroom: 302

**I.**

**INTRODUCTION**

Westamerica Bank is owed the principal amount of \$800,000 on a Line of Credit, and holds a perfected security interest in Debtor’s “*Chattel Paper, Accounts and General Intangibles*”, consisting primarily of the receivables of Cornerstone Financial Services, referred to herein as the “Receivable” and as the “Cash Collateral”. This is not disputed by the Trustee.

For Westamerica Bank’s part, it agrees that the Trustee should be permitted to use a portion of the Cash Collateral in order to collect the Receivable. The disagreement is in the

1 proposal of an adequate protection payment of \$10,000 per month, which at the end of the useful  
2 life of the Receivable would leave Westamerica Bank still owed the principal amount of more  
3 than \$600,000. (Hofmann Decl., ¶ 21.)

4 Setting aside the proposed [in]adequate protection payment, the underlying concern is the  
5 Trustee's management of the Receivable, which has a relatively short useful life, and is  
6 decreasing in value every month leases mature and no longer provide revenue. Unless the  
7 Trustee's rate of collection significantly improves, particularly if permitted to use \$60,000  
8 (\$59,803.33) each month for "operating expenses", there may not be sufficient monies to satisfy  
9 Debtor's obligation to Westamerica Bank.

10 The Trustee is required to demonstrate how Westamerica Bank's interest in the Cash  
11 Collateral will be protected. The Trustee does not make that showing. A starting point would be  
12 for the Trustee to provide at least a substantiated value of the Receivable, a plan for its  
13 collection, and assurances that Westamerica Bank is protected. As it is, the motion should be  
14 denied.

## 15 II.

### 16 STATEMENT OF THE FACTS

17 The declaration of Peter Hofmann filed concurrently herewith, details the relevant  
18 background. In particular, Mr. Hofmann provides (a) a historical overview of Westamerica  
19 Bank's banking relationship with Debtor; (b) an explanation of the loan extended to Debtor,  
20 including Westamerica Bank's perfected security interest in the Receivable; (c) thoughts  
21 regarding the value of the Receivable; and (d) comments on the proposed use of the Receivable.

22 The banking relationship between Westamerica Bank and Debtor has existed since the  
23 late 1980s, with the Line of Credit first extended in 1993. The Line of Credit "revolved" as  
24 required, that is, it was annually paid down for a period of at least 30 days. The Line of Credit  
25 was renewed annually, with the last renewal occurring in November 2024. As a part of the  
26 annual renewal process, Debtor submitted an application and financial statements, and a listing  
27 of active leases.

28 ///

1 The Trustee would have the Court believe that the value of the Receivable is in excess of  
2 \$13 Million. This statement of value is nothing more than an echoing of the Debtor's value in his  
3 Schedule A/B (Memorandum, 11:11-12 & Simons Decl., ¶ 60), and it is not realistic. There are  
4 at least two issues here, and they are discussed in Paragraphs 17 to 20 of the Hofmann  
5 Declaration. First, the Lease Portfolio (i.e., the active leases) has a short useful life. With leases  
6 maturing each month and no longer generating revenue, the Receivable will be exhausted by the  
7 end of 2028. Second, with the Trustee's demonstrated collection rate of less than 30%, and with  
8 proposed operational expenses of \$60,000, there may not be sufficient monies to pay off  
9 Westamerica Bank, let alone contribute to the unsecured creditors.

10 **III.**

11 **ANALYSIS OF TRUSTEE'S PROPOSED USE OF THE CASH COLLATERAL**

12 Debtor's pre-petition collections of the Receivable for the months of January, February  
13 and March 2025, were \$391,585, \$336,335, and \$285,462, respectively. (Hofmann Decl., ¶ 18.)  
14 Since then, the Trustee has collected only approximately \$100,000 per month, which is a  
15 collection rate of less than 30%. (Hofmann Decl., ¶¶ 18 & 22.) With that, the Trustee proposes to  
16 use \$60,000 of the Cash Collateral each month to pay "operating expenses" for the collection of  
17 the Receivable, and also, to pay Westamerica Bank the amount of \$10,000.

18 Monthly payments of \$10,000, without additional lump sum payments, would leave  
19 Westamerica Bank owed the principal amount of approximately \$640,000 at the time the  
20 Receivable has been fully collected. (Hofmann Decl., ¶ 21.) On the face of it, this leaves  
21 Westamerica Bank without adequate protection.

22 Digging deeper, there are three important and necessary items of information that the  
23 Trustee does not provide, namely, (1) a substantiated value of the Receivable (not just Debtor's  
24 opinion); (2) an explanation of the amount of the Receivable that is reasonably expected to be  
25 collected; and (3) a justification of the proposal to spend \$60,000 each month to collect only a  
26 fraction of the Receivable that is owed, and whether these expenses are proposed for the  
27 remaining 40-month term of the Lease Portfolio, or something less.

28 ///

1 If the gross value of the Receivable truly is \$13 Million - this is very much doubted - a  
2 collection rate of 30% would bring in a total of \$3.9 Million. Subtracting from this the proposed  
3 monthly operational expenses (\$60,000 times 40 months), would result in a net of only \$1.5  
4 Million. It is Westamerica Bank's understanding, and the Trustee can explain if he disagrees,  
5 that by approximately mid-2027, collections will not even cover the \$60,000 operating expenses.

6 If the principal of \$800,000 plus interest owed to Westamerica Bank were to be paid in  
7 40 equal monthly payments from September 2025 to December 2028 (the end of the useful life  
8 of the Receivable) the monthly payments would need to be in the amount of \$23,506.17.  
9 (Hofmann Decl., ¶¶ 18 & 22.) While this would work in the early years, the current low  
10 collection rate coupled with the high operating expenses would soon render this untenable. As  
11 such, in order for Westamerica Bank to be adequately protected, payments will need to be front-  
12 loaded, and the lower the Trustee's rate of collection the higher the front-loading will need to be.

13 The situation will change for the worse if the Receivable is worth something like \$10  
14 Million, which using the above collection rate and expenses, would net only a of \$600,000. On  
15 the other hand, there could be a significant change for the better if the Trustee can increase the  
16 collection rate, but again, nothing to suggest that this can be done is provided in the motion.

17 In Paragraph 23 of Mr. Hofmann's declaration, he sets out a proposed payment plan. It  
18 provides for an upfront payment from the \$300,000-plus that the Trustee is understood to be  
19 holding, with monthly payments beginning at \$50,000 and decreasing over the 20-month  
20 repayment period as collections will presumably also decrease.

21 This motion should not be granted unless and until the Trustee shows how and when  
22 Debtor's obligation to Westamerica Bank will be satisfied, and more generally, how the Trustee  
23 will manage the Receivable in order to maximize its value. This should start with the Trustee (1)  
24 providing a substantiated value of the gross amount of contractual stream of payments, both as of  
25 the present time and month-to-month over the useful life of the Lease Portfolio; (2) a detailed  
26 plan of how the receivable will be collected; and (3) an explanation of the value anticipated to be  
27 received in return for the proposed monthly payment of \$60,000 for operating expenses.

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**IV.**

**CONCLUSION**

The Trustee does not propose a use of the Cash Collateral that provides adequate protection to Westamerica Bank. To the contrary, the Trustee's proposal would leave Westamerica Bank owed in excess of \$600,000 with the Receivable exhausted.

Perhaps Debtor correctly scheduled the value of the Receivable. Perhaps the Trustee will improve his collection rate and/or reduce his operating expenses over time. Perhaps the Trustee is planning to make lump sum payments to Westamerica. Or, perhaps none of this is true. The reality is that none of this is known, because the Trustee simply does not address any of these issues.

What is clear, is that the motion does not propose a use of the Cash Collateral that adequately protects Westamerica Bank. As such, the motion is properly denied.

Dated: August 14, 2024

Respectfully submitted,

DOERKSEN TAYLOR TRIAL LAWYERS

/s/ Charles L. Doerksen

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Charles L. Doerksen, attorneys for  
secured creditor and movant Westamerica Bank

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
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A true and correct copy of the foregoing document entitled (*specify*): Memorandum of Points and Authorities in Opposition to Trustee's Motion for Order Authorizing Use of Cash Collateral

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

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Honorable Scott H. Yun BY FEDEX  
United States Bankruptcy Court  
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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

08/14/2025 Dustin Rose  
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